

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 90-69(1) (DSD)

United States of America,

Plaintiff,

v.

ORDER

Dale Edward Ailport,

Defendant.

This matter is before the court upon the motion for furlough or to set aside sentence by defendant Dale Edward Ailport. Defendant is a federal inmate serving a 360-month sentence for aiding and abetting distribution of methamphetamine, in violation of 18 U.S.C. § 2 and 21 U.S.C. § 841(a)(1). He seeks a five-day, temporary release to visit his sister, who has been diagnosed with stage-IV lung cancer.

Defendant argues that the All Writs Act, 28 U.S.C. § 1651, empowers the court to grant a furlough or temporarily set aside a sentence. However, Congress vests authority to grant furloughs in the Bureau of Prisons. 18 U.S.C. § 3622(a). "Where a statute specifically addresses the particular issue at hand, it is that authority, and not the All Writs Act, that is controlling." Bania v. Fed. Bureau of Prisons, No. 10-2212, 2011 WL 882096, at *3 (D. Minn. Feb. 24, 2011) (quoting Penn. Bureau of Corr. v. U.S. Marshals Serv., 474 U.S. 34, 43 (1985)). In the present case, 28 U.S.C. § 3622 controls. Therefore, defendant must seek his

temporary release from the Bureau of Prisons. The court will send notice of the request to the warden at FPC Duluth.

Accordingly, **IT IS HEREBY ORDERED** that the motion [ECF No. 78] is denied.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: July 6, 2012

s/David S. Doty
David S. Doty, Judge
United States District Court